

CITY OF CUMMING
COUNTY OF FORSYTH
STATE OF GEORGIA

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CUMMING, GEORGIA, CODIFIED AS CHAPTER 113 OF THE CITY OF CUMMING CODE OF ORDINANCES, TO AMEND ARTICLE III, "ZONING DISTRICTS ESTABLISHED; ZONING MAP," SECTION 113-139, "DIVISION OF CITY INTO ZONING DISTRICTS," TO INCLUDE REFERENCE TO A NEW, "AP: ANNEXED PROPERTY" ZONING DISTRICT; TO PROVIDE FOR DEFINITIONS AND TO REGULATE USES; TO PROVIDE FOR AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; AND FOR OTHER LAWFUL PURPOSES

WHEREAS; The Governing Authority of the City of Cumming has adopted a comprehensive plan for the City; and

WHEREAS; The Governing Authority recognizes that from time to time, some property owners presently lying outside the corporate limits of the City of Cumming desire to annex their property into the City; and

WHEREAS; The Governing Authority recognizes that the timing requirements for annexation related land-use dispute resolution procedures place burdens upon the City as well as the governing authority for Forsyth County, which dispute resolution process can result in unanticipated and unnecessary costs to the City and the County;

WHEREAS; The Governing Authority has determined that it is in the best interests of the City to provide a mechanism whereby a person desiring to annex property into the corporate limits can do so without the necessity of immediately triggering the possibility of mandatory dispute resolution processes;

WHEREAS; The Governing Authority believes that the amendments included in this Ordinance will have the effect of avoiding unnecessary expenditure of taxpayer dollars, unnecessary use of local and state resources, and the more thorough and deliberate planning for land use in and around the City;

WHEREAS; The Governing Authority has the authority to regulate certain uses of land within the jurisdictional limits of the City of Cumming;

WHEREAS; The Governing Authority is concerned about the health, safety, and welfare of the public when certain uses temporary in nature that attract significant numbers of people locate in high-traffic areas and potentially congested areas in and around the City;

WHEREAS; The Governing Authority of the City of Cumming has held a public hearing on the matter;

Now, therefore, the Governing Authority of the City of Cumming HEREBY ORDAINS as follows:

Section 1. There shall be a new definition added to Sec. 1.2 – Definitions and rules of construction, of the City of Cumming Zoning Ordinance, which Definition shall be as follows:

Produce Stand/Vegetable Stand/Fruit Stand/Roadside Stand: The terms produce stand/vegetable stand/fruit stand/roadside stand mean a business completely or primarily open-air in nature, which is comprised of temporary structures or mobile display facilities, utilized to sell produce, products derived from produce, homemade products, jewelry, crafts, art, or any other product or service to pedestrians or passing motorists.

Section 2. Chapter 113, “Zoning,” of the City of Cumming Code of Ordinances, Article IV, “Zoning Districts”, Section 113-181, “Table of Conditional Uses” is amended by adding thereto a new “Note 3”; a new row for *Produce Stand/Vegetable Stand/Fruit Stand/Roadside Stand*, and revising/replacing the rows for “Automobile financing, sales, and/or service establishments;” “Business service establishments, not exceeding 2,500 square feet of gross floor area;” Business service establishments of more than 2,500 square feet of gross floor area;” Commercial recreational facility indoor;” “Commercial recreational facility outdoor;” “Finance, insurance and real estate est. 2,500 square feet of gross floor area or less per est.,” Finance, insurance and real estate est. with more than 2,500 square feet of gross floor area per est.,” “Personal service establishments;” “Retail Trade Establishments, Enclosed;” which shall read as follows:

	R-1	R-1A	R2	R3	OP	INST	CBD	NS	HB	PSC	OCMS	MU	M-1
Automobile financing, sales and/or service establishments	X	X	X	X	X	X	X	X	C (note 3)	C (note 3)	X	X	C (note 3)
<i>Business service establishments not exceeding 2500 square feet of gross floor area</i>	X	X	X	X	X	C	X	X	X	X	X	X	X
<i>Business service establishments of</i>	X	X	X	X	X	C	P	C	P	P	P	P	P

	R-1	R-1A	R2	R3	OP	INST	CBD	NS	HB	PSC	OCMS	MU	M-1
<i>more than 2,500 square feet of gross floor area</i>													
<i>Commercial recreational facility indoor</i>	X	X	X	X	X	C	P	X	P	P	C	P	X
<i>Commercial recreational facility outdoor</i>	X	X	X	X	X	C	X	X	C	C	C	P	X
<i>Finance, insurance and real estate est. 2,500 square feet of gross floor area or less per est.</i>	X	X	X	X	P	C	P	P	P	P	P	P	X
<i>Finance, insurance and real estate est. with more than 2,500 square feet of gross floor area per est.</i>	X	X	X	X	X	C	P	C	P	P	P	P	X
<i>Personal service establishments</i>	X	X	X	X	C (note 2)	C	P	P	P	P	P	P	X
<i>Produce Stand, Vegetable Stand, Fruit Stand, Roadside Stand</i>	X	X	X	X	X	X	X	X	X	X	X	X	C
<i>Retail Trade Establishments, Enclosed</i>	X	X	X	X	X (note 2)	C	P	P	P	P	P	P	X

NOTE 3: With respect to an “auto broker,” this use shall be conditional only in the event that any automobiles are stored on site or are stored at a different location within the jurisdictional limits of the City of Cumming. If no automobiles are stored on site or at a different location within the jurisdictional limits of the City of Cumming, the “auto broker” use shall be a permissible use where it is otherwise identified as conditional.

Section 3. There shall be a new § 113-183 – AP Annexed Property District, codified in Article IV, Zoning Districts of the City of Cumming Zoning Ordinance, which new § 113-183 shall read as follows:

Sec. 113-183. - AP, ANNEXED PROPERTY DISTRICT

- a) Purpose and intent. The annexed property ("AP") district is intended to permit those landowners who petition to annex land into the corporate limits of the city without changing the use of their land or the intensity of the use of their land upon annexation, the option of maintaining the same land use performance standards upon the annexed property after annexation as were upon the land prior to annexation by virtue of the land performance standards of the county. Such an option permits landowners who wish to annex into the City without any change in use or development the opportunity to do so with a more gradual transition to the use and performance standards under the City's Zoning Ordinance.
- b) Permitted uses in AP. The land use performance standards, both in permissible uses and the intensity of permissible uses, shall be the same as were allowed under the county zoning ordinance governing the land immediately prior to its annexation into the city. No change in the county zoning ordinance after an annexation shall affect or change the land use performance standards for the property annexed.
- c) Conditional uses. The land use performance standards, both in conditional uses and the intensity of conditional uses, shall be the same as were conditionally allowed under the county zoning ordinance governing the land immediately prior to its annexation into the city. No change in the county zoning ordinance after an annexation shall affect or change the land use performance standards for the property annexed.
- d) Assignment of AP.
 - 1) Upon the effective date of this article, the AP zoning designation shall be an option for the initial zoning of property annexed into the corporate limits of the city.
 - a. All persons wishing to maintain the same use of their land as well as the same intensity of the use of their land after annexation shall indicate such desire by indicating on their petition for annexation that they wish their property be zoned AP upon annexation.
 - b. Only upon annexation is a landowner eligible to have his land classified within the AP zoning district. Once the land is assigned to a different land

use district under the city's zoning ordinance as provided below, the AP district is no longer available.

- 2) Nothing contained herein shall be construed to require property upon annexation or any time after annexation to be assigned the AP zoning designation. Rather, the use of the AP zoning category is at the request of the zoning applicant and is conditioned upon the granting of the same by the mayor and council.
- 3) Once designated as AP by the mayor and council, no rezoning petition may be filed on an AP property for 12 months from the effective date of the annexation as determined by chapter 36 of title 36 of the Official Code of Georgia Annotated. The foregoing notwithstanding, property shall not remain within the AP zoning district for any longer than is described below.

e) Conversion to city created performance standards.

- 1) The AP zoning designation is intended to be a temporary land use district for those persons who desire to have their land annexed into the corporate limits of the city, without changing the use of their land or the intensity of the use of their land. It is not intended to permanently supplant the specific zoning designations of the city zoning ordinance, but instead, to provide for continuity in land use performance standards upon annexation.
- 2) The AP zoning designation may be applied to land annexed into the corporate limits of the city for a period of up to 16 months after the effective date of the annexation as determined by chapter 36 of title 36 of the Official Code of Georgia Annotated.
 - a. At any time at least 12 months after the effective date of annexation of the property into the corporate limits of the city, the property may be rezoned pursuant to the application of the landowner or on the initiation of a rezoning by the governing authority.
 - b. If no rezoning is accomplished by the end of the 16-month period referred to above, the land shall automatically be converted from AP zoning designation to the R-1 zoning designation under the city zoning ordinance.
 - c. For good cause shown, the mayor and council of the city may extend the use of the AP zoning designation on a piece of property for longer than the 16-month period, but in no event shall the AP zoning designation be applied to a parcel in the corporate limits of the city for longer than 18 months.

Section 4. Severability. If any section, provision or clause of any part of this ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this ordinance would have been adopted had such invalid portion not been included herein.

Section 5. Incorporation and Repealer. Except as modified herein, the remainder of the ordinance regulating zoning is affirmed and incorporated herein. All laws and parts of laws in conflict with this enactment are hereby repealed.

Section 6. Effective Date. This ordinance shall be effective upon its passage by the Council of the City of Cumming.

SO ADOPTED AND ORDAINED by the City Council of Cumming, Georgia, this ____ day of _____, 2019.

[Executions on Following Page]

MAYOR AND CUMMING CITY COUNCIL

By: _____
Troy Brumbalow, Mayor

Lewis Ledbetter, Council Member

Linda Ledbetter, Council Member

ATTESTED TO BY:

Jeff Honea, City Clerk

Christopher Light, Council Member

Jason Evans, Council Member

Chad Crane, Council Member